

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 129 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ISHWARBHAI MAGANBHAI DESAI

Versus

AHMEDABAD DISTRICT CO-OP. MILKPRODUCE FEDERATION LTD.

Appearance:

MS MEGHA JANI for Appellant

MR SUNIT S SHAH for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 11/09/98

ORAL JUDGEMENT

1. On a joint request of learned counsel for the respective parties, this appeal is taken up for final hearing today.

2. As a result of the hearing and discussion, it is submitted that the interest of justice would not necessarily be served by deciding the present appeal on merits, inasmuch as the same pertains only to the

validity of the interim relief refused by the trial court. On the other hand, it is submitted that it would be in the interest of both sides to have the entire suit decided so that the rights of both parties are crystallized. On the basis of this consensus between the learned counsel for the respective parties, the trial court is directed to dispose of Civil Suit No. 5304/97 as expeditiously as possible and in any case not later than 31st December, 1998. It is clarified, in the context of the earlier order dated 1st May, 1998 passed in the present appeal, that the appellant-plaintiff shall remain on "Leave without Pay" until the suit is decided, and that the necessary application in this regard will be granted by the respondent-defendant.

3. It is clarified that the findings of fact recorded on the basis of prima facie evidence on record in the impugned order, are necessarily for the purpose of the said injunction application, and that the trial court while deciding the suit on merits and in the light of the evidence on record, will not necessarily be influenced by the impugned order.

4. In view of the aforesaid directions, learned counsel for the appellant does not press this appeal any further and the same is therefore permitted to be withdrawn. The appeal stands disposed off as withdrawn.

5. Yadi to the trial court forthwith i.e. not later than 17th September, 1998.

6. Direct service permitted.

Amp/-